

DOWNEY BRAND LLP

1 DOWNEY BRAND LLP
 ROBERT P. SORAN
 2 ASHLEY M. BOULTON
 621 Capitol Mall, 18th Floor
 3 Sacramento, CA 95814-4731
 Telephone: (916) 444-1000 / Facsimile: (916) 444-2100
 4 *Attorneys for GOOSE POND AG, INC., and FARMLAND MANAGEMENT SERVICES*

5 CANNATA, O'TOOLE, FICKES & OLSON
 THERESE Y. CANNATA
 6 MARK P. FICKES
 100 Pine Street, Suite 350
 7 San Francisco, CA 94111
 Telephone: (415) 409-8900 / Facsimile: (415) 409-8904

8 WITHERS BERGMAN LLP
 9 KIMBERLY A. ALMAZAN
 505 Sansome Street, 2nd Floor
 10 San Francisco, California 94111
 Telephone: (415) 872-3200/ Facsimile: (415) 549-2480
 11 *Attorneys for ROGER J. LAPANT, JR. dba J&J FARMS*

12 ANDREW J. DOYLE
 JOHN THOMAS H. DO
 13 United States Department of Justice
 Environmental and Natural Resources Division
 14 P.O. Box 7611
 Washington, D.C. 20044
 15 Telephone: (202) 514-4427
Attorneys for the UNITED STATES OF AMERICA

16 UNITED STATES DISTRICT COURT
 17 EASTERN DISTRICT OF CALIFORNIA

18
 19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 ROGER LAPANT, JR., J&J FARMS,

23 Defendants.
 24

Case No. 2:16-cv-01498-KJM-DB

**FIFTH STIPULATION, MOTION, AND
 ORDER TO AMEND SCHEDULE**

25 On January 25, 2019 (ECF No. 101), the Court approved a stipulation, motion, and
 26 proposed order presented by Plaintiff United States of America and all of the defendants to this
 27 action (“Parties”)—the United States of America and Roger J. LaPant, Jr., dba J&J Farms (“Mr.
 28 LaPant”), Goose Pond Ag, Inc., and Farmland Management Services (collectively, “Goose Pond

1 Defendants”)—to amend the schedule and impose a partial stay of discovery. The reason for that
 2 stipulation was a proposed consent decree between the United States and the Goose Pond
 3 Defendants, as well as the expiration of funding for the Department of Justice and a lapse in
 4 appropriations to the Department. To date, the United States’ motion for entry of the proposed
 5 decree remains pending.

6 Given that the Court’s review of the proposed consent decree remains pending, the
 7 Parties hereby stipulate, move, and propose that the Court amend its January 25, 2019 Order as
 8 set forth herein.

9 1. All remaining events should be rescheduled as follows:

Event	Current	Proposed
All discovery completed	May 16, 2019	August 14, 2019
Last day to hear dispositive motions	July 19, 2019	October 17, 2019
Joint Pretrial Statement Due	September 19, 2019	December 18, 2019
<i>Motions in Limine</i>	To be set upon resolution of dispositive motions or at further scheduling conference.	No change; to be set upon resolution of dispositive motions or at further scheduling conference.
Final Pretrial Conference	Same as above	No change; same as above
Trial Brief	Same as above	No change; same as above
Jury Trial (Liability)	Same as above	No change; same as above
Bench Trial (Remedy)	Same as above	No change; same as above

22 2. No depositions may be taken between now and July 8, 2019, and all such notices
 23 and/or subpoenas that have already been issued or are forthcoming, including but not limited to
 24 notices and/or subpoenas for expert witnesses, shall be held in abeyance pending efforts to meet
 25 and confer (as discussed in the sentence that follows).¹ The Parties shall, no later than June 12,
 26

27 ¹ The foregoing sentence in the body of this stipulation refers to the following deponents about
 28 which the United States and Mr. LaPant have initially conferred: Ken Lane, Matthew Kelley,
 Terry Cheney, James Komar, Todd LaPant, and Roger J. LaPant, Jr. Mr. LaPant has issued

1 2019, complete their meet and confer regarding depositions, including without limitation, the date
2 and place for each event. Depositions may again be taken starting on July 9, 2019, and continue
3 through and including August 14, 2019, and following the Parties' meet-and-confer referenced
4 above, the Parties are permitted to serve additional deposition notices and/or subpoenas in
5 accordance with the agreed-upon dates and places. Notwithstanding any other provision in this
6 stipulation, any and all objections by or on behalf of the Parties or deponents to the notices or
7 subpoenas described herein are reserved, and any and all unresolved objections shall be served in
8 writing on or before June 19, 2019. Additionally, notwithstanding any other provision of this
9 stipulation, the deadline for any motion to quash or motion for a protective order, whether filed
10 by a Party or a deponent to the notices or subpoenas described herein shall be tolled while those
11 notices or subpoenas are held in abeyance (as stated in the second sentence of this paragraph).
12 The time for such motions shall be based upon the date for compliance as determined through the
13 Parties' meet and confer described herein and at the availability of the Court.

14 3. From now until June 20, 2019, the Parties shall not: (a) propound or conduct any
15 fact or expert discovery, written, oral, or otherwise, including but not limited to any depositions
16 or any requests or subpoenas for documents, except as set forth in Paragraph 2 above and
17 Paragraphs 4 through 6 below; or (b) conduct any law and motion practice, except for discovery
18 motions as referenced in Paragraphs 4 through 6 below; motions to further amend the schedule;
19 and motions for leave as referenced in Paragraph 6 below.

20 4. This stipulation, motion, and proposed Order does not prohibit the following
21 discovery (and any related motion to compel or similar discovery motion) at any time:

22 _____
23 notices of deposition for Messrs. Kelley and Komar, and the United States intends to issue
24 notices of deposition or subpoenas to the remaining deponents. In addition, the foregoing
25 sentence in the body of this stipulation refers to the following retained experts for which Mr.
26 LaPant has issued notices of deposition or subpoenas: Gregory House, Peter Stokely, Scott
27 Stewart, Michael Josselyn, Randall Grip, Misha Schwarz, and Mark Hanna. Additionally, the
28 foregoing sentence in the body of this stipulation refers to the following retained experts for
which the United States may issue notices of deposition: Paul Wisniewski, Paul Squires, and
Damon Brown. In addition, the foregoing sentence in the body of this stipulation refers to any
additional deponents for which the Goose Pond Defendants may issue notices of deposition or
subpoenas, including but not limited to retained experts.

- 1 a. Interrogatories solely between the United States and Mr. LaPant;
- 2 b. Requests for admission solely between the United States and Mr. LaPant;
- 3 c. Requests for documents solely between the United States and Mr. LaPant; and
- 4 d. Subpoena for documents and electronically stored information from third parties,
5 provided that the third party is not either affiliated with the Goose Pond
6 Defendants (i.e. current employee or affiliated business entity), is not a former
7 employee, retained expert, or confidential consultant, and the subpoena does not
8 otherwise seek documents that contain information in the possession or control of
9 the subpoenaed third party, which is asserted to be privileged or protected from
10 disclosure by the Goose Pond Defendants.²

11 5. This stipulation, motion, and proposed Order does not otherwise affect the written
12 discovery propounded discovery propounded by Mr. LaPant to date, including Mr. LaPant’s
13 Second Set of Interrogatories, Fourth Set of Request For Production of Documents, and First Set
14 of Request For Admissions propounded on December 3, 2018 to the United States.

15 6. This stipulation, motion, and proposed Order does not prohibit the United States
16 and Mr. LaPant from taking any action to address or resolve disputes regarding any outstanding
17 discovery requests solely between themselves, including any pending discovery motions or
18 matters currently the subject of discussion among the Parties.

19 7. The Parties reserve their right to seek leave of Court for any appropriate relief
20 from or related to the restrictions on discovery set forth in this stipulation, motion, and proposed
21 Order upon a showing of good cause. By the same token, the Parties reserve their right to oppose
22 any request for relief.

23 STIPULATED AND RESPECTFULLY SUBMITTED,

24 ² To facilitate implementation of this provision, the Parties further agree that any party wishing to
25 serve any additional deposition notices and/or subpoenas not served on opposing counsel prior to
26 November 15, 2018, shall first provide seven days advance written notice to all other parties,
27 prior to service of any such subpoena. No such subpoena may be served without leave of Court if
28 the Goose Pond Defendants notify the other parties in writing, within the seven day period, that
the proposed subpoena is directed to a party that is either affiliated with the Goose Pond
Defendants (i.e. current employee or affiliated business entity), or is a former employee, retained
expert, or confidential consultant, or the subpoena otherwise seeks documents that contain
information in the possession or control of the subpoenaed third party, which is asserted to be
privileged or protected from disclosure by the Goose Pond Defendants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: March 7, 2019

DOWNEY BRAND LLP

By: /s/ Robert P. Soran

ROBERT P. SORAN
Attorneys for GOOSE POND AG, INC., and
FARMLAND MANAGEMENT SERVICES

DATED: March 7, 2019

CANNATA, O'TOOLE, FICKES & ALMAZAN LLP

By: /s/ Mark P. Fickes

MARK P. FICKES
Attorneys for ROGER J. LAPANT, Jr., dba J&J
FARMS

DATED: March 7, 2019

UNITED STATES DEPARTMENT OF JUSTICE,
ENRD

By: /s/ Andrew Doyle

ANDREW DOYLE
Attorneys for UNITED STATES OF AMERICA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Upon due consideration, and good cause shown, the Court approves the following:

Event	Current	Proposed
All discovery completed	May 16, 2019	August 14, 2019
Last day to hear dispositive motions	July 19, 2019	October 18, 2019
Joint Pretrial Statement Due	September 19, 2019	December 18, 2019
Motions in Limine	To be set upon resolution of dispositive motions or at further scheduling conference.	No change; to be set upon resolution of dispositive motions or at further scheduling conference.
Final Pretrial Conference	Same as above	No change; same as above
Trial Brief	Same as above	No change; same as above
Jury Trial (Liability)	Same as above	No change; same as above
Bench Trial (Remedy)	Same as above	No change; same as above

DATED: April 17, 2019.



UNITED STATES DISTRICT JUDGE